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THE DEPARTMENT OF HOMELAND  
SECURITY

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

K. H., C.V., W.L., J.M., JEFFREY BOYER,  
BRIAN PIEROG, DONNA BAXTER,  
RICHARD DEVIVO, and GARY  
MCCONAGHY, on behalf of themselves and  
those similarly situated,

Plaintiffs,

v.

THE SECRETARY OF THE DEPARTMENT  
OF HOMELAND SECURITY,

Defendant.

Case No. 15-cv-02740 JST

**STIPULATION AND ~~PROPOSED~~ ORDER RE  
PRODUCTION OF THIRD-PARTY  
INFORMATION**

The Honorable Jon S. Tigar

WHEREAS, this is an Age Discrimination in Employment Action challenging the closure of six  
Federal Air Marshal Service ("FAMS") offices;

WHEREAS, plaintiffs allege that the office closures were discriminatory and bring both direct  
discrimination and disparate impact theories;

WHEREAS, plaintiffs seek certain information not only about the Federal Air Marshals at the  
impacted offices, but also the Federal Air Marshals at the non-impacted offices, such as dates of birth and  
duty location. Plaintiffs assert that such information is relevant to their disparate impact analysis, among

other things;

WHEREAS, Defendant does not dispute that this information may be relevant to the disparate impact analysis, but notes that it is also personally-identifying information about third parties (i.e., Federal Air Marshals who are not before the Court). Such information is generally protected under the Privacy Act, 5 U.S.C. § 522a, among other things.

WHEREAS, the Privacy Act contains an exception permitting disclosure of protected information “pursuant to the order of a court of competent jurisdiction.” 5 U.S.C. § 522a(b)(11).

IT IS HEREBY STIPULATED, by the parties to the above-captioned action, by and through their respective counsel of record, that, to the extent the Court agrees that certain demographic information about non-party Federal Air Marshals, such as dates of birth and duty station, is relevant to the claims herein, it should be produced to plaintiffs pursuant to the protective orders in place.

DATED: July 14, 2016

Respectfully submitted,

BRIAN J. STRETCH  
United States Attorney

/s/ Wendy M. Garbers  
WENDY M. GARBERS  
Assistant United States Attorney  
Attorneys for Defendant

DATED: July 14, 2016

MORRIS POLICH & PURDY LLP

/s/ Nicholas M. Wieczorek \*  
NICHOLAS M. WIECZOREK  
Attorneys for Plaintiffs

*\*In compliance with Civil Local Rule 5-1(i)(3), the filer of this document attests under penalty of perjury that plaintiff has concurred in the filing of this document.*

**[PROPOSED] ORDER**

The Court agrees that certain demographic information about non-party Federal Air Marshals, such as their dates of birth and duty stations, is relevant to the claims herein. The Court hereby orders that such information be provided to plaintiffs under the protective orders in place in this litigation.

IT IS SO ORDERED.

Dated: July 15, 2016



THE HONORABLE JON S. TIGAR